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8 Attorneys for Defendants
 9 WMC Mortgage, LLC and
 10 GE Consumer Finance, Inc.

FILED
 E-filing
 MAY 28 2008

RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

13 PATRICIA C. BARBERA,

14 Plaintiff

15 vs.

16 WMC MORTGAGE CORPORATION, a
 17 California corporation; aka WMC Direct, a
 18 California Business Entity; GE Consumer
 19 Finance, a unit of General Electric
 20 Company; Select Portfolio Servicing
 21 Corp., a Utah Corporation; Fairbanks
 22 Holding Corporation, a Delaware
 23 Corporation; and Land Title Company of
 24 Marin, a California Business Entity;
 25 Does 1 thru 100, inclusive.

26 Defendants.

Case No.: _____

[Removal from Superior Court of
 California, County of Marin,
 Case No. CV 081763]

**DEFENDANTS WMC MORTGAGE
 LLC AND GE CONSUMER
 FINANCE, INC.'S NOTICE OF
 REMOVAL OF ACTION PURSUANT
 TO 28 U.S.C. §§ 1331 AND 1441**

[FEDERAL QUESTION]

REED SMITH LLP
 A limited liability partnership formed in the State of Delaware

FAXED

1 TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE
 2 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION:

3
 4 PLEASE TAKE NOTICE THAT defendants WMC Mortgage, LLC ("WMC
 5 Mortgage") (successor in interest to "WMC Mortgage Corporation") and GE
 6 Consumer Finance, Inc. ("GECF") hereby remove this action from the Superior Court
 7 of California, County of Marin, to the United States District Court for the Northern
 8 District of California, pursuant to 28 United States Code Sections 1331 and 1441
 9 (Federal Question). The removal of this action is based on the following:

10
 11 **I. REMOVAL IS PROPER BECAUSE THIS COURT HAS SUBJECT**
 12 **MATTER JURISDICTION PURSUANT TO 28 U.S.C. § 1331 AND § 1441**

13 1. On April 11, 2008, plaintiff Patricia C. Barbera ("Plaintiff") filed
 14 an action in the Superior Court of the State of California for the County of Marin,
 15 entitled *Patricia C. Barbera v. WMC Mortgage Corporation, et al.*, as Case
 16 Number CV 081763. A true and correct copy of the Complaint is attached hereto
 17 as Exhibit "A."

18 2. Plaintiff's lawsuit arises from a loan she obtained from WMC
 19 Mortgage on June 11, 1997. Plaintiff alleges, *inter alia*, that WMC Mortgage failed
 20 to provide her with certain disclosures required by the federal Truth in Lending Act
 21 ("TILA") and the federal Home Owners Equity Protection Act (HOEPA) when she
 22 obtained her loan. Specifically, she alleges WMC Mortgage failed to provide her
 23 with a "right to rescind" disclosure required by the TILA. She also alleges that
 24 when she attempted to rescind her loan with WMC Mortgage, WMC Mortgage
 25 refused to execute the rescission. Additionally, she alleges that WMC Mortgage
 26 billed her for improper charges, and subsequently failed to respond to her written
 27 request disputing those charges, thus violating the federal Real Estate Settlement
 28

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Procedures Act ("RESPA"). Plaintiff further alleges that WMC Mortgage violated the federal Fair Debt Collection Practices Act by providing inaccurate credit reports. Plaintiff alleges a total of 15 causes of action: (1) Request for Specific Performance; (2) Action to Quiet Title; (3) Slander of Title; (4) Violation of the federal Truth in Lending Act ("TILA"), 15 U.S.C. § 1601 *et seq.*, and the federal Home Ownership and Equity Protection Act ("HOEPA"), 15 U.S.C. § 1639; (5) Violation of the federal Real Estate Settlement Procedures Act ("RESPA"), 12 U.S.C. § 2605 *et seq.*; (6) Unlawful predatory lending practices; (7) Misrepresentation and Inducement; (8) Harassment; (9) Violation of the federal Fair Debt Collections Practices Act, 15 U.S.C. § 1692, and RESPA, 12 U.S.C. § 2605; (10) Breach of Contract in violation of the TILA, 15 U.S.C. § 1601 *et seq.*, the RESPA, 12 U.S.C. § 2605 *et seq.*, and the HOEPA, 15 U.S.C. § 1639; (11) Unjust Enrichment; (12) Fraudulent Accounting; (13) Breach of Fiduciary Duty; (14) Negligence; and (15) Unclean Hands, against WMC Mortgage and GECF.

3. This action is a civil action over which this Court has original jurisdiction under 28 U.S.C. Section 1331, and is one which may be removed to this Court pursuant to the provisions of 28 U.S.C. Section 1441 in that it is a civil action arising under the laws of the United States, namely the TILA, the RESPA, the FDCPA, and the HOEPA.

II. THE PROCEDURAL REQUIREMENTS FOR REMOVAL ARE SATISFIED

4. On or about April 29, 2007, WMC Mortgage received a copy of the Complaint and a Summons. A true and correct copy of the Summons is attached hereto as Exhibit "B." This Notice of Removal is therefore timely filed under 28 U.S.C. § 1446(b).

1 5. The Superior Court of California for the County of Marin is
2 located within the Northern District of California, San Francisco Division. *See* 28
3 U.S.C. § 84(c)(2). Thus, venue is proper in this Court because it is the “district and
4 division embracing the place where such action is pending.” 28 U.S.C. § 1441(a).

5 6. A search of the Marin County Superior Court files and docket
6 sheet in this action on May 28, 2008 showed no proof of service or other record
7 indicating that defendants Select Portfolio Servicing Corporation, Fairbanks
8 Holding Corporation, and Land Title Company of Marin have been served in this
9 action. Declaration of Scott H. Jacobs at ¶ 3. Accordingly, the joinder of these
10 unserved defendants in this Notice of Removal is not required. *Salveson v. Western*
11 *States Bankcard Assn.*, 731 F.2d 1423, 1429 (9th Cir. 1984).

12 7. No previous request has been made for the relief requested herein.

13 8. In compliance with 28 U.S.C. 1446(d), WMC Mortgage and
14 GECF will serve on Plaintiff a Notice to Plaintiff of Filing Notice of Removal,
15 attaching a copy of this Notice of Removal, and will file the same with the Clerk of
16 the Superior Court of California, County of Marin.

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1 WHEREFORE, WMC Mortgage and GECF respectfully remove this action
2 from the California Superior Court for the County of Marin to this Court pursuant
3 to 28 United States Code Sections 1331 and 1441.

4 DATED: May 28, 2008

REED SMITH LLP

6
7 By


8 Scott H. Jacobs
9 Christopher O. Rivas
10 Attorneys for Defendants
11 WMC Mortgage, LLC and
12 GE Consumer Finance, Inc.

11 DOCSLA-15641583.1

REED SMITH LLP

A limited liability partnership formed in the State of Delaware

EXHIBIT A

ATTORNEY OR PARTY WITHOUT ATTORNEY (No. _____) (For number, and address): PATRICIA C. BARBERA 24 Caribe Isle Novato CA 94949 TELEPHONE NO.: (415) 382-9617 FAX NO.: (415) 382-0756 ATTORNEY FOR (Name): In Pro Per		FOR COURT USE ONLY FILED MARIN COUNTY SUPERIOR COURT APR 11 A 10:31	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN STREET ADDRESS: 3501 CIVIC CENTER DRIVE MAILING ADDRESS: P.O. BOX 4988 CITY AND ZIP CODE: SAN RAFAEL DRIVE, CA 94939 BRANCH NAME:		CASE NUMBER: CV 081763 JUDGE: Duryee DEPT:	
CASE NAME: BARBERA v. WMC MORTGAGE			
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PIPD/W (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PIPD/W (23) Non-PIPD/W (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PIPD/W tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input checked="" type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. <input type="checkbox"/> Large number of separately represented parties b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve c. <input type="checkbox"/> Substantial amount of documentary evidence	d. <input type="checkbox"/> Large number of witnesses e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court f. <input type="checkbox"/> Substantial postjudgment judicial supervision
--	--

3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive

4. Number of causes of action (specify): **15**

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: April 8, 2008

PATRICIA C. BARBERA

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

 Form Adopted for Mandatory Use
 Judicial Council of California
 CM-010 (Rev. July 1, 2007)
CIVIL CASE COVER SHEET
 Cal. Rules of Court, rules 2.30, 3.220, 3.400-3.403, 3.740;
 Cal. Standards of Judicial Administration, std. 3.10
www.courtinfo.ca.gov

 American LegalNet, Inc.
www.FormsWorkflow.com

PLD-C-001

SHORT TITLE:

BARBERA v. WMC MORTGAGE CORPORATION

CASE NUMBER:

4. (Continued)

b. The true names of defendants sued as Does are unknown to plaintiff.

(1) ☒ Doe defendants (specify Doe numbers): 100 INCLUSIVE were the agents or employees of the named defendants and acted within the scope of that agency or employment.(2) ☐ Doe defendants (specify Doe numbers): are persons whose capacities are unknown to plaintiff.c. ☐ Information about additional defendants who are not natural persons is contained in Attachment 4c.d. ☐ Defendants who are joined under Code of Civil Procedure section 382 are (names):5. ☐ Plaintiff is required to comply with a claims statute, anda. ☐ has complied with applicable claims statutes, orb. ☐ is excused from complying because (specify):6. ☐ This action is subject to ☐ Civil Code section 1812.10 ☐ Civil Code section 2984.4.

7. This court is the proper court because

a. ☐ a defendant entered into the contract here.b. ☐ a defendant lived here when the contract was entered into.c. ☐ a defendant lives here now.d. ☐ the contract was to be performed here.e. ☐ a defendant is a corporation or unincorporated association and its principal place of business is here.f. ☒ real property that is the subject of this action is located here.g. ☐ other (specify):

8. The following causes of action are attached and the statements above apply to each (each complaint must have one or more causes of action attached):

☒ Breach of Contract☐ Common Counts☐ Other (specify):9. ☐ Other allegations:

10. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

a. ☒ damages of: \$b. ☒ interest on the damages(1) ☐ according to proof(2) ☒ at the rate of (specify): 10 percent per year from (date): JUNE 7, 1979c. ☒ attorney's fees(1) ☐ of: \$(2) ☒ according to proof.d. ☐ other (specify):11. ☒ The paragraphs of this pleading alleged on information and belief are as follows (specify paragraph numbers):

Date: April 8, 2008

PATRICIA C. BARBERA

(TYPE OR PRINT NAME)



(SIGNATURE OF PLAINTIFF OR ATTORNEY)

(If you wish to verify this pleading, affix a verification.)

PLD-C-001

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): PATRICIA C. BARBERA 24 Caribe Isle Novato CA 94949 TELEPHONE NO: (415) 382-9617 FAX NO. (Optional): (4415) 382-0756 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): In Pro Per		FOR COURT USE ONLY <div style="text-align: center; font-size: 2em; font-weight: bold;">FILED</div> <div style="text-align: center;">APR 11 2008</div> KIM TURNER, Court Executive Officer MARIN COUNTY SUPERIOR COURT By: C. Larson, Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN STREET ADDRESS: 3501 Civic Center Drive MAILING ADDRESS: P.O. BOX 4988 CITY AND ZIP CODE: San Rafael CA 94939 BRANCH NAME:		
PLAINTIFF: PATRICIA C. BARBERA DEFENDANT: WMC MORTGAGE CORPORATION * ATTACHMENT 1 A California Corporation, See Attachment 1 <input checked="" type="checkbox"/> DOES IT TO 100,		
<div style="text-align: center; font-weight: bold;">CONTRACT</div> <input checked="" type="checkbox"/> COMPLAINT <input type="checkbox"/> AMENDED COMPLAINT (Number): <input type="checkbox"/> CROSS-COMPLAINT <input type="checkbox"/> AMENDED CROSS-COMPLAINT (Number):		
Jurisdiction (check all that apply): <input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000 but does not exceed \$25,000 <input checked="" type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000) <input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint or cross-complaint <input type="checkbox"/> from limited to unlimited <input type="checkbox"/> from unlimited to limited		CASE NUMBER: <div style="font-size: 1.5em;">CV 081763</div>

1. Plaintiff* (name or names):
PATRICIA C. BARBERA
 alleges causes of action against defendant* (name or names):
WMC MORTGAGE CORPORATION * ATTACHMENT 1
2. This pleading, including attachments and exhibits, consists of the following number of pages:
3. a. Each plaintiff named above is a competent adult
☐ except plaintiff (name):
 (1) ☐ a corporation qualified to do business in California
 (2) ☐ an unincorporated entity (describe):
 (3) ☐ other (specify):
 b. ☐ Plaintiff (name):
 a. ☐ has complied with the fictitious business name laws and is doing business under the fictitious name (specify):
 b. ☐ has complied with all licensing requirements as a licensed (specify):
 c. ☐ Information about additional plaintiffs who are not competent adults is shown in Attachment 3c.
4. a. Each defendant named above is a natural person
☒ except defendant (name):
 (1) ☐ a business organization, form unknown
 (2) ☒ a corporation
 (3) ☐ an unincorporated entity (describe):
 (4) ☐ a public entity (describe):
 (5) ☐ other (specify):
☐ except defendant (name):
 (1) ☒ a business organization, form unknown
 (2) ☐ a corporation
 (3) ☐ an unincorporated entity (describe):
 (4) ☐ a public entity (describe):
 (5) ☐ other (specify):

* If this form is used as a cross-complaint, plaintiff means cross-complainant and defendant means cross-defendant.

Page 1 of 2

PLD-C-001

SHORT TITLE:

BARBERA v. WMC MORTGAGE CORPORATION

CASE NUMBER:

4. (Continued)

b. The true names of defendants sued as Does are unknown to plaintiff.

(1) ☒ Doe defendants (specify Doe numbers): 100 INCLUSIVE were the agents or employees of the named defendants and acted within the scope of that agency or employment.(2) ☐ Doe defendants (specify Doe numbers): are persons whose capacities are unknown to plaintiff.c. ☐ Information about additional defendants who are not natural persons is contained in Attachment 4c.d. ☐ Defendants who are joined under Code of Civil Procedure section 382 are (names):5. ☐ Plaintiff is required to comply with a claims statute, anda. ☐ has complied with applicable claims statutes, orb. ☐ is excused from complying because (specify):6. ☐ This action is subject to ☐ Civil Code section 1812.10 ☐ Civil Code section 2984.4.

7. This court is the proper court because

a. ☐ a defendant entered into the contract here.b. ☐ a defendant lived here when the contract was entered into.c. ☐ a defendant lives here now.d. ☐ the contract was to be performed here.e. ☐ a defendant is a corporation or unincorporated association and its principal place of business is here.f. ☒ real property that is the subject of this action is located here.g. ☐ other (specify):

8. The following causes of action are attached and the statements above apply to each (each complaint must have one or more causes of action attached):

☒ Breach of Contract☐ Common Counts☐ Other (specify):9. ☐ Other allegations:

10. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

a. ☒ damages of: \$b. ☒ interest on the damages(1) ☐ according to proof(2) ☒ at the rate of (specify): 10 percent per year from (date): JUNE 7, 1979c. ☒ attorney's fees(1) ☐ of: \$(2) ☒ according to proof.d. ☐ other (specify):11. ☒ The paragraphs of this pleading alleged on information and belief are as follows (specify paragraph numbers):

Date: April 8, 2008

PATRICIA C. BARBERA

(TYPE OR PRINT NAME)


 (SIGNATURE OF PLAINTIFF OR ATTORNEY)

(If you wish to verify this pleading, affix a verification.)

MC-025

SHORT TITLE:
BARBERA vs, WMC MORTGAGE CORPORATION

CASE NUMBER:

ATTACHMENT (Number):

Page of

(This Attachment may be used with any Judicial Council form.)

(Add pages as required)

PLD-C-001 BARBERA STATEMENT

This action evolved as the result of Defiant Predatory Lenders WMC Mortgage Corporation, a California Corporation; Wmc Direct, a California Business Entity; GE Consumer Finance, a Unit of General Electric Company; Fairbanks Capital Corp., a Utah Corporation; Fairbanks Capital Holding Corp., a Delaware Corporation; Aka Select Portfolio Servicing, Inc; and California Land Title Company of Marin, a California Business Entity, During Which They Have Persecuted Barbera for over a Decade, with the Intent of Unlawfully Appropriating BARBERA's property. She brings this Quiet Title action to clear her property from the Continuing Slander Tort Wrongs of the predatory lender, WMC.

WMC and their cohort FAIRBANKS engaged in a scheme of pervasive and fraudulent accounting practices, which, combined with its failure to respond to "qualified written requests," enabled WMC to act with impunity on a scale heretofore not recognized in-California home loan lending practices.

Dated: April 10, 2008



PATRICIA C. BARBERA

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

Page 1 of 1

PLD-C-001(3)

SHORT TITLE:
BARBERA v, WMC MORTGAGE CORPORATION

CASE NUMBER:

CAUSE OF ACTION—Fraud

(number)

FR-4. ☐ **Promise Without Intent to Perform**

a. Defendant made a promise about a material matter without any intention of performing it ☒ as stated in Attachment FR-4.a ☐ as follows:

b. Defendant's promise without any intention of performance was made with the intent to defraud and induce plaintiff to rely upon it and to act as described in item FR-5. At the time plaintiff acted, plaintiff was unaware of defendant's intention not to perform the promise. Plaintiff acted in justifiable reliance upon the promise.

FR-5. In justifiable reliance upon defendant's conduct, plaintiff was induced to act ☒ as stated in Attachment FR-5 ☐ as follows:

FR-6. Because of plaintiff's reliance upon defendant's conduct, plaintiff has been damaged ☒ as stated in Attachment FR-6 ☐ as follows:

FIR - 7. Other:

Page

MC-025

SHORT TITLE:

BARBERA vs, WMC MORTGAGE CORPORATION

CASE NUMBER:

ATTACHMENT (Number): _____

Page _____ of _____

(This Attachment may be used with any Judicial Council form.)

(Add pages as required)

WMC Mortgage Corporation, a California Corporation; Aka WMC Direct, a California Business Entity, GE Consumer Finance, a Unit of General Electric Company; Select Portfolio Servicing, Inc; Aka Fairbanks Capital Corp., a Utah Corporation, Fairbanks Capital Holding Corp., a Delaware Corporation; and California Land Title Company of Marin, a California Business Entity. Does 1-100

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

1 Patricia C. Barbera
2 24 Caribe Isle,
3 Novato, Ca. 94949
4 Tele: (415) 382-9617
5 Fax: (415) 382-0756
6 In Pro Per

7 **IN THE SUPERIOR COURT OF CALIFORNIA**
8 **FOR THE COUNTY OF MARIN**
9 **UNLIMITED JURISDICTION**

10 **PATRICIA C. BARBERA,**

CASE NO.

11 **vs.**

**VERIFIED COMPLAINT TO QUIET
TITLE AND FOR DECLARATORY
RELIEF**

12 **Plaintiff,**

13 **WMC MORTGAGE CORPORATION**
14 **a California Corporation; aka WMC Direct,**
15 **a California Business Entity, GE**
16 **Consumer Finance, a unit of General**
17 **Electric Company; Select Portfolio**
18 **Servicing Corp, a Utah Corporation,**
19 **Fairbanks Holding Corporation, a**
20 **Delaware Corporation; and**
21 **Land Title Company Of Marin, a**
22 **California Business entity;**

23 **Does 1 thru 100, inclusive.**

24 **Defendants.**

25 **1. REQUEST FOR SPECIFIC**
26 **PERFORMANCE,**
2. QUIET TITLE ACTION
3. SLANDER OF TITLE ACTION
4. FAILURE TO PROVIDE
MANDATORY THREE-DAY
NOTICE OF RESCISSION, AND
UNDERSTATED DISCLOSURES
6. UNLAWFUL PREDATORY
PRACTICES ,
7. MISREPRESENTATION AND
INDUCEMENT,
8. HARASSMENT/MALICIOUS
JUDICIAL PROCESS
9. DEBT COLLECTION
VIOLATIONS
10. BREACH OF CONTRACT
11. USURY AND UNJUST
ENRICHMENT
12. FRAUDULENT ACCOUNTING
13. BREACH OF FIDUCIARY DUTY
14. NEGLIGENCE/EMOTIONAL
DISTRESS
15. UNCLEAN HANDS

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PLD-C-001 ATTACHMENT II.

BARBERA STATEMENT

This action evolved as the result of a **DEFIANT PREDATORY LENDER** Defendants, **WMC MORTGAGE etal** who for over a decade persecuted **BARBERA**, by harassing **BARBERA** with fraudulent accountings to which She had no recourse. She was hounded by the 50+ pages, in which the figures are intentionally bogus and misrepresented. Examples:

1) The most recent month mortgage statement cites in part:

A) This Month's Payment: \$228,617.94

Payment Due Date: 03/01/08

	New This Period	Balance
Tax/ins Pd by Servicer	\$188.00	\$9,348.92
Late Charges		\$600.00
Other Fees		\$694.94
B) Total Additional Amounts Owed		\$10,643.86
C) Unapplied Balance		\$1,889.03
D) Total Amount Due		\$237,372.77

2). In 2007, Plaintiff received a Pay-Off Statement which it claims that the loan of \$322,500., now has amount due of \$1,214,316.51., which precludes her from selling or encumbering her property.

She also was denied Her Due Process RIGHTS, when WMC etal refused to comply with the RESCISSION RIGHTS, Truth in Lending Act, 15 U.S.C. §1601 et seq. ("TILA"), Regulation Z. She has endured these hardships for 7 years, as a result of this flagrant conduct. It is time for justice to prevail. She brings this Quiet Title action to clear her property from the Continuing Slander Tort Wrongs of the **DEFIANT PREDATORY LENDER, WMC.**

BARBERA respectfully requests that this court declare that this loan is void; that

1 WMC be enjoined from any further fraudulent accountings; that they must rectify the
 2 rescission violation by compiling with TILA and executing the Full Deed of Reconveyance
 3 and recording it at the Marin County Recorder's office within 24 hours; execute accurate
 4 accountings and refund the accurate amount due within one month.

5 RESCISSION RIGHTS (TILA)

6 (BORROWER HAS ABSOLUTE RIGHT TO RESCISSION)

7 The regulations implementing the Truth in Lending Act,
 8 generally known as Regulation Z, states that within 20 calendar days
 9 after receipt of a notice of rescission, the creditor shall return any
 10 money or property that has been given to anyone in connection with
 11 the transaction and shall take any action necessary to reflect the
 12 termination of the security interest. 12 C.F.R. § 226.23.(Citing
 13 Velazquez v. Homeamerican Credit, 2003254 F.Supp.2d 1043),

14 This section does not permit the creditor to retain its security
 15 interest, or to withhold money or property, pending the consumer's
 16 return of what they received under the agreement. In fact, the statute
 17 and the regulations are explicit that the consumer need not return
 18 money or property to the creditor until after the creditor has fulfilled
 19 its obligations under the statute. 15 U.S.C.S. § 1635(b); 12 C.F.R. §
 20 226.23(d)(3).(Citing Velazquez v. Homeamerican Credit, 2003254
 21 F.Supp.2d 1043),

22 Neither the Truth in Lending Act nor the regulations permit a
 23 creditor unilaterally to impose its will upon the rescission process. This
 24 is particularly true where the consumer has given the creditor no
 25 indication that she cannot or will not tender the money after the
 26 creditor performs.(Citing Velazquez v. Homeamerican Credit, 2003254
 F.Supp.2d 1043).

Creditors are also liable for actual damages, statutory damages in the amount of
 twice the finance charge, up to \$2,000, and attorney's fees and costs. Failure to respond to
 the rescission notice as spelled out above results in additional award of statutory damages

24 INTRODUCTION

25 Plaintiff, PATRICIA C. BARBERA, is the owner of a fee simple interest in the real
 26 property located in the Bel Marin Keys Subdivision, County Of Marin, State of California,

1 commonly known as 24 Caribe Isle, Novato, California, and more particularly described as
2 Marin Assessor's Parcel 157-530-25. BARBERA has resided there since 1987.

3 **PARTIES**

4 Plaintiff PATRICIA BARBERA ("BARBERA") is a 76-year old individual, residing
5 at all relevant times in the County of Marin, California.

6 1. At all material times, defendant WMC Mortgage Corp. ("WMC"), formerly
7 known as WMC Finance Co., was and is an entity formed by Apollo Management L.P. and
8 an individual named Leon Black and others who acquired Weyerhaeuser Mortgage
9 Company and Weyerhaeuser Insurance Services. WMC is a notorious PREDATORY
10 LENDER. WMC is a California corporation with its corporate headquarters in Woodland
11 Hills, California. It operates throughout California making subprime loans on residential
12 property and it also acts as the administrator for those loans. WMC also owns and operates
13 defendant WMCDirect, WMC's online nationwide business services website for mortgage
14 brokers. WMC is a defendant in the NAACP vs Ameriquest Mortgage Company, Class
15 Action Suit, filed July 2007.

16 2. On June 14, 2004, GE Consumer Finance Co., the consumer lending unit of
17 the General Electric Company (NYSE: GE) purchased WMC Finance Co., including
18 defendants WMC and WMCDirect, from affiliates of Apollo Management L.P.

19 3. November 16, 2007, Leon Black, the original "junkman" who built a 47-
20 billion-plus empire aka Apollo Management LP on predatory lending, disclosed that last
21 year He had bought back the WMC Mortgage Corp's business for a premium-in cash-
22 price. for which He paid \$192 million.

23 4. At all material times, Defendant Select Portfolio Servicing, Inc. ("SPS"),
24 formerly known as Fairbanks Capital Corp., was and is a Utah corporation that acts on
25 behalf of WMC as the servicer of WMC's loans, including WMC's loan to plaintiff.

26 5. At all material times, Fairbanks Capital Holding Corp. was and is a
Delaware corporation which fully owns and controls as a subsidiary defendant SPS.

1 6. At all material times, defendant Trans Western Title Company, a
2 Corporation doing business as California Land Company of Marin ("Cal Land") was and
3 is a title company with its principal business office in Marin County, California.

4 7. Plaintiff is ignorant of the true names and capacities of defendants sued
5 herein as Does 1 through 100, and therefore plaintiff sues these defendants by such
6 fictitious names. Plaintiff is informed and believes and thereon alleges that each of the
7 fictitiously named defendants, including any such defendants that may be the agents,
8 representatives, or parent or subsidiary corporations of the named defendants, is
9 responsible in some manner for the occurrences, events, transactions, and damages alleged
10 herein, and that plaintiff's damages as hereinafter set forth were proximately caused by the
11 Doe defendants. Plaintiff will amend her complaint to state the true names and capacities
12 of the Doe defendants when they have been ascertained.

13 Plaintiff is informed and believes and thereon alleges that each of the defendants,
14 including the Doe defendants, acted in concert with each and every other defendant, and
15 intended to and did participate in the events, acts, practices and courses of conduct alleged
16 herein, and each was a proximate cause of the damages and statutory violations alleged
17 herein. At all times herein mentioned, each defendant was the agent or employee of each of
18 the other defendants and was acting within the course and scope of such agency or
19 employment.

20 8. Each of the following causes of action arises from a home loan that WMC
21 made to plaintiff that was intended primarily for personal, family or household use. This
22 loan was a "federally related mortgage loan" within the meaning of the Real Estate
23 Settlement Procedures Act ("RESPA").

24 9. Plaintiff is informed and believes, and based thereon alleges, that WMC is a
25 major "high cost" residential subprime mortgage lender which has 6 billion dollars in
26 residential mortgage loans secured primarily by first mortgage liens on personal residences
in the State of California. Plaintiff is further informed and believes, and based thereon
alleges, that WMC has been in the business of making residential subprime mortgage loans

1 and home equity loans as a "high-cost" predatory lender for many years, primarily in the
2 State of California.

3 **FIRST CAUSE OF ACTION**
4 **(REQUEST FOR SPECIFIC PERFORMANCE)**
5 **Civil Code § 3384 et seq**

6 **10. BARBERA alleges and incorporates herein by reference the allegations set**
7 **forth in Paragraphs 1 through 9 above as if fully alleged herein.**

8 **11. BARBERA is informed and believes, and thereon alleges, that the acts and**
9 **conduct of defendants as alleged in this complaint violate various provisions of the Truth in**
10 **Lending Act, 15 U.S.C. §1601 et seq. ("TILA"), Regulation Z, and the Home Ownership**
11 **and Equity Protection Act, 15 U.S.C §1639 ("HOEPA").**

12 **12. These violations include, without limitation, the failure and refusal to**
13 **execute the rescission. (the creditor shall return any money or property that has been given**
14 **to anyone in connection with the transaction and shall take any action necessary to reflect**
15 **the termination of the security interest).**

16 **13. The authorized action referred to above is a Deed of Reconveyance,**
17 **followed by it's Recording.**

18 **14. As a proximate result of said TILA, Regulation Z, and HOEPA violations,**
19 **BARBERA has suffered substantial economic damages and other general and special**
20 **damages in an amount to be proven at time of trial, and She is entitled to rescission of his**
21 **loan transaction with WMC, which She executed and to which WMC wrongfully refused to**
22 **complete.**

23 **15. Wherefore, BARBERA seeks actual damages, sanctions and whatever other**
24 **remedies are available under TILA, Regulation Z, and HOEPA, including without**
25 **limitation rescission of her loan transaction with WMC.**

26 **SECOND CAUSE OF ACTION**
QUIET TITLE ACTION

(California Code of Civil Procedure),
Section 760. et seq, 761. et seq, 764. Et seq, 770. et seq.
(All defendants)

C.C.P. 760.020. (a) An action may be brought under this chapter to establish title against adverse claims to real or personal or any interest therein.

C.C.P. 760.040. (a) The superior court has jurisdiction of actions under this chapter. (b) The court has complete jurisdiction over the parties to the action and the property described in the complaint and is deemed to have obtained possession and control of the property for the purposes of the action with jurisdiction to render the judgment provided for in this chapter. (C) Nothing in this chapter limits any authority the court may have to grant such equitable relief as may be proper under the circumstances of the case.

THIRD CAUSE OF ACTION

SLANDER OF TITLE ACTION

Civil Code § 48a; C.C.P. § 460 et seq;

Civil Code § 2924 (TILA)

Slander of Title. A false and malicious statement, oral or written, made in disparagement of a person's title to real or personal property, or of some right of his causing him special damage. Black's Law Dictionary.

WMC and SPS produced fraudulent accountings, which prevented her from selling her home or otherwise encumbering her property with a Reverse Mortgage to relieve her financial obligations. The Loan Payoff Statement claimed a payoff in the amount of \$1,214,316.51.

FOURTH CAUSE OF ACTION

FAILURE TO PROVIDE MANDATORY THREE-DAY NOTICE OF RESCISSION AND UNDERSTATED DISCLOSURES

(Truth in Lending Act), 15 U.S.C. §1601 et seq. ("TILA"); Regulation Z, 15 U.S.C § 1639 et seq. ("HOEPA").

(Defendants WMC and Cal Land Only)

16. BARBERA realleges and incorporates herein by reference the allegations set forth in Paragraphs 1 through 17 above as if fully alleged herein.

1 17. BARBERA is informed and believes, and thereon alleges, that the acts and
2 conduct of defendants as alleged in this complaint violate various provisions of the Truth in
3 Lending Act, 15 U.S.C. §1601 et seq. ("TILA"), Regulation Z, and what is called the Home
4 Ownership and Equity Protection Act, 15 U.S.C. §1639 ("HOEPA").

5 18. These violations include, without limitation, the failure to provide to plaintiff
6 the mandated written three-day right to cancel notice at the loan closing date of June 11,
7 1997. In addition, defendants failed to provide accurate disclosures, as mandated by these
8 statutes. Any statute of limitations applicable to these violations has been tolled under the
9 doctrine of what is called equitable tolling.

10 19. As a proximate result of said TILA, Regulation Z, and HOEPA violations,
11 BARBERA has suffered substantial economic damages and other general and special
12 damages in an amount to be proven at time of trial, and she is entitled to rescission of her
13 loan transaction with WMC, which She correctly filed and to which WMC wrongfully
14 DEFIED.

15 20. Wherefore, BARBERA seeks damages and whatever other remedies are
16 available under TILA, Regulation Z, and HOEPA, including without limitation rescission
17 of her loan transaction with WMC.

18 SUMMARY OF FACTS

19 21. On June 11, 1997 BARBERA obtained a loan from WMC in the amount of
20 \$322,500 at an annual percentage rate of 12.2573%, and executed loan documents at CAL
21 LAND. On that date, She signed the documents, where and how instructed by the title
22 officer at CAL LAND, escrow no: 213663-bb. She was given no documents to take with Her
23 at that time, due their failure and refusal to give Her the mandated documents, which
24 included the 3-day Notice of Rescission, and was told to return later when She could
25 obtain Her proceeds. She was denied the mandatory right to rescind, and defendants failed
26 to prepare and deliver accurate disclosures that were mandated under TILA (the Truth in
27 Lending Act, 15 U.S.C. sec. 1601. et seq.) for the close of escrow in a home mortgage
28 transaction.

22. Approximately June 19, 1997, BARBERA returned to Cal Land to receive her proceeds and was given a folder of documents titled MORTGAGE LOAN DISCLOSURE STATEMENT/GOOD FAITH ESTIMATE, and printed at the top in red ink, "CLIENT'S COPY- FINAL". She put it away without inspecting it, and it was years before She had cause to review the folder's contents. And when She did so, She found that the 3-day notice was a blank form. See Exhibit 2.

UNDER STATED DISCLOSURES

A. Federal Truth-in-Lending disclosure statements must not exceed a tolerance of \$100.00 normally, or \$35.00 in dispute and any deviation constitutes usury.

B. WMC MORTGAGE'S disclosed that BARBERA had been overcharged for two days interest. Over a 30 year loan it amounts to \$66,797.00.

C. WMC MORTGAGE'S loan documents contain "REBATE" which is illegal and it cost BARBERA one-half of one percent over the life of the loan, which amounts to \$174,150.

D. WMC MORTGAGE'S loan documents understated the APR in the amount of \$1,529,295.

E. WMC MORTGAGE under states the finance charge in the amounts of \$744,660.

Including usury, the violations total \$103,556,702.00

23. BARBERA further alleges in this respect that defendants' failure to provide these right to rescind notices and to prepare and deliver properly drafted close of escrow documents as required by TILA was and continues to be a pattern of practice routinely carried out by defendants to defraud or to harm home loan borrowers.

FIFTH CAUSE OF ACTION

CONSPIRACY

RESPA (Real Estate Settlement Procedures Act)

12 U.S.C. §2605 et seq

(Defendants WMC and SPS Only)

24. On May 19, 1998, WMC notified BARBERA that it had not received proof of her renewal of the hazard insurance policy on Her home. Despite Her numerous telephone calls to WMC and despite verification provided to WMC by Her insurance company that a copy of Her insurance policy had been mailed to WMC, they proceeded to

1 force-place a substitute policy from another hazard insurance company at plaintiff's
2 expense.

3 25. On October 13, 1998, BARBERA received a copy of the force-placed policy,
4 which reflected a premium of \$2,242, nearly three times the annual premium for
5 BARBERA's own policy of \$820, which She had been regularly paying.

6 26. In January, 1999, after numerous telephone calls to WMC, plaintiff received
7 a letter dated January 19, 1999, advising her that WMC had received recent confirmation
8 of hazard insurance coverage for plaintiff's property and that WMC had canceled both the
9 force-placed and its charge to plaintiff for that policy.

10 27. Unbeknownst to plaintiff and contrary to WMC's representation, WMC
11 failed to cancel the \$2,242 charge to plaintiff's escrow account for hazard insurance, and in
12 fact WMC continued to impose a monthly charge on this bogus account and which
13 continues to this date, in which they claim the account has a balance of \$10,455.86, and
14 \$1,889.03 in Unapplied Balance, totaling \$11,344.99., as of 01/16/08. See Exhibit 3.

15 28. On August 19, 1999, WMC served on BARBERA a ten-day default notice
16 listing amounts alleged due on Her mortgage. The amounts set forth in the default notice
17 were false. They exceeded the amounts due under the note by a substantial sum. Using
18 these excessive amounts as a pretext, on November 5, 1999, WMC and its foreclosure agent,
19 Millennium Foreclosure Services, LLC ("Millennium"), served Her with a notice of default
20 in the amount of \$42,114.79.

21 29. On December 4, 1999, She sent a detailed letter to both WMC and
22 Millennium by facsimile. In her letter, which is a "qualified written request" within the
23 meaning of RESPA at subsection (e) of 12 U.S.C. §2605, plaintiff denied that she owed
24 WMC the amount shown in Millennium's notice of default and she renewed her previous
25 oral requests to WMC, starting in June, 1999, for an accurate accounting, as WMC's
26 monthly payment coupons sent to plaintiff contained erroneous accounting debits and
credits. Subsection (e) of 12 U.S.C. §2605 of RESPA requires a loan servicer to

1 acknowledge receipt of a "qualified written request" within 20 days and to respond to such
2 a request within 60 days, excluding legal public holidays, Saturdays, and Sundays.

3 30. Beginning June, 1999, WMC violated RESPA by failing to respond to
4 plaintiff's oral requests and also by failing to acknowledge or to respond within the
5 statutory time limits to plaintiff's "qualified written requests." Not only did WMC fail to
6 respond to plaintiff's oral and written requests, it continued to bill plaintiff for improper
7 charges, and it also attempted to carry out a foreclosure sale of plaintiff's home, based
8 upon these improper charges. BARBERA further alleges that WMC's failure to deliver the
9 required right to rescind notices and to prepare and process properly drafted close of
10 escrow documents as required by TILA was and continues to be a pattern of practice
11 routinely carried out by WMC to defraud or to harm home loan borrowers.

12 From the inception of this loan in JUNE 1997, WMC failed to notify BARBERA
13 that Fairbanks, now called SPS, became the servicer for plaintiff's loan, which is a
14 RESPA violation in that both servicers were mandated to notify Plaintiff. Both conspired to
15 withhold that crucial and mandated information from BARBERA.

16 31. On February 11, 2000 BARBERA received a Notice of Trustee's Sale
17 recorded on February 7, 2000, citing a sale date of March 2, 2000. The sale amount listed in
18 the Notice was \$372,316.39.

19 32. On February 27, 2000, BARBERA sent via facsimile to WMC a copy of a
20 telegram advising WMC that it had failed to respond to plaintiff's previous letters, had
21 failed to provide an accurate accounting, and had violated various laws and regulations.

22 33. On March 1, 2000, WMC supplied BARBERA with a statement purportedly
23 showing the history of payments on the loan, but this statement was incomprehensible, as
24 were WMC's monthly loan statements.

25 34. On March 2, 2000, plaintiff notified WMC that she had filed a Chapter 13
26 bankruptcy petition, and she verified that the foreclosure had been canceled. On April 11,
2000, in violation of the automatic bankruptcy stay, WMC filed a Notice of Trustee's Sale
scheduled for May 10, 2000.

1 35. This mortgage loan transaction with WMC was a consumer credit
2 transaction entered into by plaintiff for personal, household or family purposes.

3 **SIXTH CAUSE OF ACTION**
4 ***UNLAWFUL PREDATORY LENDING PRACTICES (SCHEME)***
5 **(California Business & Professions Code) §17200 et seq**
6 **(Defendants WMC and SPS Only)**

7 36. Defendant WMC has consistently engaged in what is called predatory
8 lending practices, that is, it preys upon borrowers who have poor credit history or who
9 have limited financial resources or who are elderly. In doing so, WMC takes advantage of
10 these vulnerable borrowers by demanding that such borrowers, including, for example,
11 plaintiff, pay excessively high interest rates and other excessive or unnecessary lending
12 charges which are not warranted by the creditworthiness of such borrowers. In addition,
13 defendant WMC engaged in a scheme of pervasive and fraudulent accounting practices,
14 which, combined with its failure to respond to "qualified written requests," enabled WMC
15 to act with impunity on a scale heretofore not recognized in California home loan lending
16 practices. They also routinely violated the rescission laws and denied the procedure.

17 37. These predatory lending practices are consistently followed by WMC and
18 constitute an unfair business practice under §17200 of the California Business &
19 Professions Code.

20 38. Wherefore, BARBERA, on behalf of herself seeks whatever appropriate
21 remedies would be available under §17200, including without limitation statutory penalties,
22 rescission, restitution, disgorgement of profits, injunctive relief, actual damages, punitive
23 damages and attorney's fees. This mortgage loan transaction with WMC was a consumer
24 credit transaction entered into by plaintiff for personal, household or family purposes.

25 **SEVENTH CAUSE OF ACTION**
26 ***MISREPRESENTATION AND INDUCEMENT***
 (Consumers Legal Remedies Act) ("CLRA")
 Civil Code § 1770 et seq; Civil Code § 3294 et seq.

39. Plaintiff is informed and believes, and based thereon alleges that the acts and

1 the conduct of the defendants alleged herein above are a violation of Civil Code § 1770, the
 2 Consumers Legal Remedies Act ("CLRA"), including subsections (a)(8), (9), (13), (14), (16)
 3 and (19), respectively.

4 40. Plaintiff has suffered substantial economic damage, and other general and
 5 special damages, as a result of the herein-mentioned violations of the Consumers Legal
 6 Remedies Act, in an amount to be proven at time of trial.

7 41. Plaintiff has suffered substantial economic damage, and other general and
 8 special damages, as a result of the herein-mentioned violations of the Consumers Legal
 9 Remedies Act, in an amount to be proven at time of trial. Plaintiff is informed and believes,
 10 and based thereon alleges, that defendants continue to engage in the above-described
 11 deceptive practices, and that unless they be enjoined from doing so by this court they will
 12 continue to do so, all to the damage of its customers who will enter into home loan
 13 mortgage transactions with the defendants.

14 42. The aforementioned violations of the Civil Code by defendants were willful,
 15 despicable, cruel unjust, malicious, fraudulent or oppressive, and committed Fraudulent
 16 Concealment, and Continuing Tort Wrongs, in conscious disregard of the consequences to
 17 plaintiff thereby entitling BARBERA to punitive damages pursuant to Civil Code §3294
 18 and other California and Federal Statutes.

19 Furthermore, those violations effect the Statute of Limitations as they apply only at
 20 the last wrong.

21 **EIGHTH CAUSE OF ACTION**
HARASSMENT
MALICIOUS ABUSE OF JUDICIAL PROCESS
 22 Code of Civil Procedure § 527 et seq
 23 (TILA) Truth-in-Lending Act
 (Defendant WMC and SPS Only)

24 43. During July 2000, at the time BARBERA commenced to scrutinize the loan
 25 documents, She became aware of the 36 month statute of limitations for rescission and
 26

1 subsequently learned of the Bankruptcy provisions for an extension of time.(11 USC 108.
2 EXTENSION OF TIME). The date of the loan contract was 6/11/97. The date of the filing
3 of the Bankruptcy was 5/09/00.

4 44. September 2000, BARBERA commenced to analyze the Truth in Lending
5 Disclosures and questioned the accuracy of the payment schedule which contains only three
6 payment amounts computed, for this discounted variable rate mortgage which includes;
7 first adjustment cap, semi-annual rate adjustments, and life of loan cap.

8 45. On 12/15/00 BARBERA sent WMC a one line notice of rescission taken
9 verbatim from the unexecuted form which She had received, "I wish to cancel." See
10 Exhibit 4.

11 46. On 1/05/01 She received a letter dated 1/02/01 from WMC Senior Vice
12 President & General Counsel, Michael L. Mayer, which included the executed Notice of
13 Right to Cancel which She had not seen since executing it on June 12, 1997. It contained
14 the violation when they say, "Your cancellation notice is invalid and of no legal effect." See
15 exhibit 5.

16 47. BARBERA realleges and incorporates herein by reference the allegations set
17 forth in Paragraphs 1 through 50 above as if fully alleged herein.

18 48. On June 11, 2001, BARBERA filed a complaint in the San Francisco
19 Superior Court, which was litigated until June 4, 2006, at which time she voluntarily
20 dismissed it without prejudice. In March 2004, as the result of the stays for Defendant
21 Millennium's bankruptcy, A subsequent case was filed in the San Francisco Superior
22 Court which was then removed by WMC to the Federal Court in Oakland. It was
23 dismissed in 2005.

24 NINTH CAUSE OF ACTION

25 (RESPA) DEBT COLLECTION VIOLATIONS 12 U.S.C. §2605;
26 Federal Fair Debt Collections Practices Act, 15 U.S.C. §1692 et seq
(Defendants WMC and SPS Only)

49. Plaintiff realleges and incorporates herein by reference the allegations set
forth in Paragraphs 1 through 52 above as if fully alleged herein.

1 RESPA (Real Estate Settlement Procedures Act) 12 U.S.C. §2605 et seq. From the in launch
 2 of the loan WMC has defied all of these laws with impunity. Plaintiff has performed all of
 3 the obligations under this home loan agreement she was required to perform.

4 55. WMC breached this home loan agreement by declaring the loan in default,
 5 by demanding that plaintiff pay charges that were not due under the loan, and by
 6 attempting to exercise foreclosure rights given to WMC in the mortgage securing loan, even
 7 though WMC did not have the right to exercise such foreclosure rights, and defying the
 8 notice of rescission.

9 56. As a proximate result of WMC's breach of this home loan agreement as
 10 alleged above, plaintiff has sustained compensatory damages in an amount to be
 11 determined at time of trial, including, without limitation, damages she sustained when she
 12 was forced to seek bankruptcy court protection.

13 57. Wherefore, plaintiff seeks compensatory damages in such amounts as may
 14 be allowed by the court at time of trial.

15 **ELEVENTH CAUSE OF ACTION**
USURY AND UNJUST ENRICHMENT
 16 (Defendant WMC and SPS Only)

17 58. Plaintiff realleges and incorporates herein by reference the allegations set
 18 forth in Paragraphs 1 through 61 above as if fully alleged herein.

19 59. The interest rate charged by defendants for the WMC loan which is the
 20 subject of this complaint was usurious as that term is defined and applied by the California
 21 Constitution. At the time this usury occurred, WMC was not a commercial lender as that
 22 term is used in the California Constitution, and WMC did not "arrange" for this loan as a
 23 licensed real estate broker.

24 60. Wherefore, plaintiff is entitled to such damages as the usury laws of
 25 California may allow.

26 **TWELFTH CAUSE OF ACTION**
FRAUDULENT ACCOUNTING
 (RESPA) Real Estate Settlement Procedures Act)

(Defendants WMC and SPS Only)

61. Plaintiff realleges and incorporates herein by reference the allegations set forth in paragraphs 1 through 64 above as if fully alleged herein.

62. Defendants WMC and/or SPS devised a Machiavellian scheme to never respond to inquiries, and with when combined with fraudulent accountings, resulted in an unprecedented financial slaughter of the borrowers.

63. Their payment histories are unintelligible and contain obtuse charges titled : Corporate Advance Activity, Escrow Advance Activity, Unapplied Funds, Broker Price Opinion, and Mis-application Reversal. See Exhibit 8.

64. Plaintiff received a Pay-Off Notice which claims that the loan in the amount of \$322,500., now has a claim due of \$1,214,316.51., which precludes her from selling her property.

Wherefore, plaintiff seeks whatever remedies may be available under RESPA, including, without limitation, actual damages, compensatory damages, statutory damages, statutory penalties and attorney's fees.

THIRTEENTH CAUSE OF ACTION
BREACH OF FIDUCIARY DUTY
(Defendant WMC and Cal Land Only)

65. Plaintiff realleges and incorporates herein by reference the allegations set forth in paragraphs 1 through 68 above as if fully alleged herein.

66. At the time the home loan in question was placed in June 1997, defendant Cal Land acted as the escrow, and as such defendant Cal Land owed a fiduciary duty to both plaintiff and defendant WMC.

67. Defendant Cal Land Title breached its fiduciary duty when they committed Fraudulent Concealment, and Continuing Tort Wrongs, concealing and failing to disclose to plaintiff the mandated written three-day right to cancel notice, and it also failed to provide accurate disclosures, as mandated by TILA, Regulation Z, and HOEPA.

1 Furthermore, those violations effect the Statute of Limitations as they apply only at
2 the last wrong.

3 68. As a proximate result of said breach of fiduciary duty, plaintiff has suffered
4 substantial economic damages and other general and special damages in an amount to be
5 proven at time of trial, and she is entitled to rescission for her loan transaction with WMC.

6 **FOURTEENTH CAUSE OF ACTION**
7 **NEGLIGENCE-EMOTIONAL DISTRESS**
8 Civil Code § 2338; Civil Code ¶ 1714 et seq
(Defendants WMC and SPS only)

9 69. Plaintiff realleges and incorporates herein by reference the allegations set
10 forth in paragraphs 1 through 72 above as if fully alleged herein.

11 70. At the time the home loan in question was placed in June 1997, defendant Cal
12 Land acted as the escrow.

13 71. While acting as the escrow, defendant Cal Land Title committed negligence by
14 failing to providing to plaintiff the mandated written three-day right to cancel notice, and it
15 also failed to provide accurate disclosures, as mandated by TILA, Regulation Z, and
16 HOEPA.

17 72. As a proximate result of said negligence, plaintiff has suffered substantial
18 economic damages and other general and special damages in an amount to be proven at
19 time of trial.

20 73. Wherefore, plaintiff seeks compensatory damages in an amount according to
21 plaintiff's proof at time of trial.

22 **FIFTEENTH CAUSE OF ACTION**
23 **(UNCLEAN HANDS DOCTRINE)**

24 74. Unclean hands doctrine. Doctrine simply means that in equity, as in law,
25 plaintiff's fault, like defendant's, may be relevant to the question of what, if any,
26 remedy plaintiff is entitled to. Shondel v. McDermott, C.A.Ind., 775 F.2d 859, 8668.

1 Principle that one who has unclean hands is not entitled to relief in equity. Doctrine
 2 means no more than that one who has defrauded his adversary in the subject matter of
 3 the action will not be heard to assert right in equity. Under this doctrine, a court of
 4 equity may deny relief to a party whose conduct has been inequitable, unfair, and
 5 deceitful, but doctrine applies only when the reprehensible conduct complained of
 6 pertains to the controversy at issue. *Goben v. Barry*, 234 Kan. 721, 676 P.2d 90, 97.

7 PUNITIVE DAMAGES

8 75. Plaintiff realleges and incorporates herein by reference the allegations set
 9 forth in paragraphs 1 through 74 above as if fully alleged herein.

10 76. As a proximate result of the statutory violations and the concealment and the
 11 usury violations and the breach of fiduciary duty alleged in this complaint, plaintiff is
 12 entitled to an award of punitive damages pursuant to the provisions of Civil Code §3294.

13 PRAYER FOR RELIEF

14 WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- 15 a. That this court find and declare the defendant's acts and practices as described herein to
 be unlawful, unfair, and fraudulent;
- 16 b. That this court find and declare the defendant's acts and practices as described herein to
 be Failure to Provide Mandatory Three-day Notice of Rescission and Understated
 17 Disclosures;
- 18 c. That this court find and declare the defendant's acts and practices as described herein to
 be an Abuse of Judicial Process;
- 19 d. That this court find and declare the defendant's acts and practices as described herein to
 be Debt Collection Violations;
- 20 e. That this court find and declare the defendant's acts and practices as described herein to
 be a Breach of Contract;
- 21 f. That this court find and declare the defendant's acts and practices as described herein to
 be Usury and Unjust Enrichment
- 22 g. That this court find and declare the defendant's acts and practices as described herein to
 be Fraudulent Accounting;
- 23 h. That this court find and declare the defendant's acts and practices as described herein to
 be a Breach of Fiduciary Duty; Plaintiff seeks statutory penalties to the extent allowed by
 24 any of the causes of action alleged in this complaint.
 25
 26

1 c. Plaintiff seeks rescission and restitution and disgorgement to the extent allowed by any of
2 the causes of action alleged in this complaint.

3 d. Plaintiff seeks usury damages to the extent allowed by any of the causes of action alleged
4 in this complaint.

5 e. Plaintiff seeks punitive damages to the extent allowed by any of the causes of action
6 alleged in this complaint.

7 f. Plaintiff seeks attorney's fees to the extent allowed by any of the causes of action alleged
8 in this complaint.

9 g. Plaintiff seeks costs of suit to the extent allowed by any of the causes of action alleged in
10 this complaint.

11 h. Plaintiff seeks such other and further relief that the court may allow.

12 Patricia C. Barbera,
13 In Pro Per

14 Date: April 8, 2008

Patricia C. Barbera

15 BARBERA V. WMC MORTGAGE
16
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EXHIBITS



Page 1 of 1

P.O. Box 65250, Salt Lake City, UT 84165-0250

Customer Service 1-800-258-8602
Monday - Friday 7:00AM - 8:00PM ET
Saturday 8:00AM - 12:00PM ET
 For other important contact information see the reverse side

#BWNJXZF
 Patricia C Barbera
 24 Caribe Isle
 Novato CA 94949-5342

**LOAN INFORMATION**

Property Address: 24 CARIBE ISLE
 NOVATO CA 94949

Loan Number: 1100508215 **Current Interest Rate:** 11.625%

<u>YTD Interest Paid</u>	<u>YTD Taxes Paid</u>	<u>YTD Principal Paid</u>
\$.00	\$.00	\$.00
<u>Current Principal Balance¹</u>	<u>Tax/Ins Pd by Servicer⁴</u>	<u>Current Unapplied Balance³</u>
\$315,481.40	\$9,348.92	\$1,889.03

If you have any questions regarding your loan or this statement, please call 1-800-258-8602.

You can access your automated loan information 24 hours a day or make a payment online by visiting our web site at www.spservicing.com or by calling the Customer Service number shown above.

MONTHLY MORTGAGE STATEMENT

Statement Date: 02/14/08

Loan Due Date:² 02/01/02

Principal & Interest: \$3,209.10
Taxes & Insurance: \$.00
Regular Monthly Payment: \$3,209.10

Past Due Payments: \$225,408.84

A) This Month's Payment: \$228,617.94

Payment Due Date: 03/01/08

	<u>New This Period</u>	<u>Balance</u>
Tax/Ins Pd by Servicer ⁴	\$188.00	\$9,348.92
Late Charges	\$.00	\$600.00
Other Fees	\$.00	\$694.94

B) Total Additional Amounts Owed \$10,643.86

C) Unapplied Balance³ \$1,889.03

D) Total Amount Due \$237,372.77

(A plus B minus C = D)

ACTIVITY FROM 01/17/08 thru 02/14/08

<u>Date</u>	<u>Description</u>	<u>Prin Bal</u>	<u>Interest</u>	<u>Taxes & Ins Pd by Srvc</u>	<u>Late Charges</u>	<u>Unappl Bal</u>	<u>Other Fees</u>	<u>Total</u>
01/17	BEG BALANCE	\$315,481.40	\$206,146.28	\$9,160.82	\$600.00	(\$1,889.03)	\$694.84	\$530,194.51
02/07	HAZARD INS	0.00	0.00	188.00	0.00	0.00	0.00	188.00
02/14	ENDING BALANCE	\$315,481.40	\$206,146.28	\$9,348.92	\$600.00	(\$1,889.03)	\$694.84	\$530,382.51

IMPORTANT MESSAGES

¹This amount is not a payoff quote. If you want a payoff quote, please see instructions on reverse side.

Any payments received after the Statement Date noted above will be reflected on your next statement.

²Loan Due Date: If this date is different from your Payment Due Date, it means that you are past due and owe payments from previous months.

You are hereby notified that this statement is an attempt to collect a debt. All information obtained will be used for that purpose.

³Partial payments or overpayments are treated as unapplied funds until we receive enough for a full Principal & Interest payment, at which time we will credit your account for the Principal and Interest payment.

Your account is now past due. There are a number of options available to assist customers who are experiencing difficulty with their payments. Please contact us immediately to discuss these options, arrange a reinstatement or address any questions regarding this statement at 1-888-818-6032.

⁴We have paid Taxes and/or Insurance on your behalf and you are responsible to reimburse us for these amounts plus interest, which may be billed at the note rate.

Per IRS regulations all 2007 year end statements will be mailed no later than January 31, 2008. Requests for copies will be accepted after February 12, 2008. Year End information will be available via our automated voice system on January 3, 2008 or via our website spservicing.com as of January 31, 2008.

PLEASE DETACH AT PERFORATION AND RETURN THIS COUPON WITH PAYMENT

WMC Mortgage Corp.
P.O. Box 551170
Jacksonville, FL 32255-1170

PATRICIA C BARBERA
PO BOX 5295
NOVATO CA 94948

RE: Loan No. 1100508215

----- ACCOUNT ACTIVITY STATEMENT -----

TRANSACTION DESCRIPTION	PROCESS DATE	DUE DATE	TOTAL AMOUNT	PRINCIPAL AMOUNT	INTEREST AMOUNT	ESCROW AMOUNT	FEES	OPTIONAL INSURANCE	MISC
HOMOWNERS INS	01/12	02/04	\$610.64-	\$0.00	\$0.00	\$610.64-	\$0.00	\$0.00	\$0.00
ESCROW ADVANCE	01/12	05/01	\$555.96	\$0.00	\$0.00	\$555.96	\$0.00	\$0.00	\$0.00
HOMOWNERS INS	02/09	03/04	\$193.00-	\$0.00	\$0.00	\$193.00-	\$0.00	\$0.00	\$0.00
ESCROW ADVANCE	02/09	05/01	\$193.00	\$0.00	\$0.00	\$193.00	\$0.00	\$0.00	\$0.00
HOMOWNERS INS	03/09	04/04	\$205.00-	\$0.00	\$0.00	\$205.00-	\$0.00	\$0.00	\$0.00
ESCROW ADVANCE	03/09	05/01	\$205.00	\$0.00	\$0.00	\$205.00	\$0.00	\$0.00	\$0.00
PAYMENT	03/10	05/01	\$3,280.50	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$3,280.50
HOMOWNERS INS	04/07	05/04	\$200.00-	\$0.00	\$0.00	\$200.00-	\$0.00	\$0.00	\$0.00
ESCROW ADVANCE	04/07	05/01	\$200.00	\$0.00	\$0.00	\$200.00	\$0.00	\$0.00	\$0.00
HOMOWNERS INS	05/07	06/04	\$205.00-	\$0.00	\$0.00	\$205.00-	\$0.00	\$0.00	\$0.00
ESCROW ADVANCE	05/07	05/01	\$205.00	\$0.00	\$0.00	\$205.00	\$0.00	\$0.00	\$0.00
PAYMENT	05/07	05/01	\$3,280.50	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$3,280.50
HOMOWNERS INS	06/08	07/04	\$199.00-	\$0.00	\$0.00	\$199.00-	\$0.00	\$0.00	\$0.00
ESCROW ADVANCE	06/08	05/01	\$199.00	\$0.00	\$0.00	\$199.00	\$0.00	\$0.00	\$0.00
HOMOWNERS INS	07/07	08/04	\$206.00-	\$0.00	\$0.00	\$206.00-	\$0.00	\$0.00	\$0.00
ESCROW ADVANCE	07/07	05/01	\$206.00	\$0.00	\$0.00	\$206.00	\$0.00	\$0.00	\$0.00
PAYMENT	08/09	05/01	\$2,240.46	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2,240.46
HOMOWNERS INS	08/09	09/04	\$206.00-	\$0.00	\$0.00	\$206.00-	\$0.00	\$0.00	\$0.00
ESCROW ADVANCE	08/09	05/01	\$206.00	\$0.00	\$0.00	\$206.00	\$0.00	\$0.00	\$0.00
HOMOWNERS INS	09/08	10/04	\$199.00-	\$0.00	\$0.00	\$199.00-	\$0.00	\$0.00	\$0.00
ESCROW ADVANCE	09/08	05/01	\$199.00	\$0.00	\$0.00	\$199.00	\$0.00	\$0.00	\$0.00
HOMOWNERS INS	10/07	11/04	\$206.00-	\$0.00	\$0.00	\$206.00-	\$0.00	\$0.00	\$0.00
ESCROW ADVANCE	10/07	05/01	\$206.00	\$0.00	\$0.00	\$206.00	\$0.00	\$0.00	\$0.00
PAYMENT	11/10	05/01	\$2,187.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2,187.00
HOMOWNERS INS	11/15	12/04	\$196.00-	\$0.00	\$0.00	\$196.00-	\$0.00	\$0.00	\$0.00
ESCROW ADVANCE	11/15	05/01	\$196.00	\$0.00	\$0.00	\$196.00	\$0.00	\$0.00	\$0.00
PAYMENT	12/07	05/01	\$2,187.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2,187.00
HOMOWNERS INS	12/07	01/05	\$202.00-	\$0.00	\$0.00	\$202.00-	\$0.00	\$0.00	\$0.00
ESCROW ADVANCE	12/07	05/01	\$202.00	\$0.00	\$0.00	\$202.00	\$0.00	\$0.00	\$0.00
PAYMENT	12/16	05/01	\$0.00	\$110.87	\$3,529.55	\$0.00	\$0.00	\$0.00	\$25,482.94-
PAYMENT	12/16	06/01	\$0.00	\$112.10	\$3,528.32	\$0.00	\$0.00	\$0.00	\$0.00
PAYMENT	12/16	07/01	\$0.00	\$113.35	\$3,527.07	\$0.00	\$0.00	\$0.00	\$0.00
ARM LOAN ADJUSTMENT	12/16	08/01	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
PAYMENT	12/16	08/01	\$0.00	\$138.48	\$3,262.19	\$0.00	\$0.00	\$0.00	\$0.00
PAYMENT	12/16	09/01	\$0.00	\$139.90	\$3,260.77	\$0.00	\$0.00	\$0.00	\$0.00
PAYMENT	12/16	10/01	\$0.00	\$141.35	\$3,259.32	\$0.00	\$0.00	\$0.00	\$0.00
PAYMENT	12/16	11/01	\$0.00	\$142.80	\$3,257.87	\$959.00	\$0.00	\$0.00	\$0.00
REPAY OF ESCROW ADVANCE	12/16	11/01	\$0.00	\$0.00	\$0.00	\$959.00-	\$0.00	\$0.00	\$0.00
INTEREST ON ESCROW DEPOS	12/31	12/01	\$0.04	\$0.00	\$0.00	\$0.04	\$0.00	\$0.00	\$0.00

2116

sep 17 01 10:45a

p.6

NOTICE OF RIGHT TO CANCEL

LENDER: WMC MORTGAGE CORP.
 Equity Services
 6320 Canoga Avenue, Suite 720
 Woodland Hills, CA 91367

DATE 06/11/97
LOAN NO. 10050821
TYPE CONVENTIONAL

BORROWERS PATRICIA C. BARBERA

ADDRESS 24 CARIBE ISLE
CITY/STATE/ZIP NOVATO, CA 94949

PROPERTY 24 CARIBE ISLE, NOVATO, CA 94949

You are entering into a transaction that will result in a mortgage/lien/security interest on your home. You have a right under federal law to cancel this transaction, without cost, within **THREE BUSINESS DAYS** from whichever of the following events occurs last:

- (1) The date of the transaction, which is
- (2) The date you received your Truth in Lending disclosures; or
- (3) The date you received this notice of your right to cancel.

If you cancel the transaction, the mortgage/lien/security interest is also cancelled. Within **20 CALENDAR DAYS** after we receive your notice, we must take the steps necessary to reflect the fact that the mortgage/lien/security interest on your home has been cancelled, and we must return to you any money or property you have given to us or to anyone else in connection with this transaction.

You may keep any money or property we have given you until we have done the things mentioned above, but we must then offer to return the money or property. If it is impractical or unfair for you to return the property, you must offer reasonable value. You may offer to return the property at your home or at the location of the property. Money must be returned to the address below. If we do not take possession of the money or property within **20 CALENDAR DAYS** of your offer, you may keep it without further obligation.

HOW TO CANCEL

If you decide to cancel this transaction, you may do so by notifying us in writing, at:

Equity Services
 6320 Canoga Avenue, Suite 720, Woodland Hills, CA 91367

You may use any written statement that is signed and dated by you and states your intention to cancel, or you may use this notice by dating and signing below. Keep one copy of this notice because it contains important information about your right.

If you cancel by mail or telegram, you must send the notice no later than **MIDNIGHT** of 6/16/97 (or **MIDNIGHT** of the **THIRD BUSINESS DAY** following the latest of the three events listed above). If you send or deliver your written notice to cancel some other way, it must be delivered to the above address no later than that time.

I WISH TO CANCEL

CONSUMER'S SIGNATURE

DATE

Each of the borrowers in this transaction has the right to cancel. The exercise of this right by one borrower shall be effective to all borrowers.

I/We acknowledge receipt of two copies of NOTICE of RIGHT TO CANCEL

Patricia C. Barbera 6/16/97
 BORROWER PATRICIA C. BARBERA DATE

 BORROWER DATE

 BORROWER DATE

 BORROWER DATE

 BORROWER DATE

 BORROWER DATE



Michael L. Mayer
Senior Vice President
and General Counsel

January 2, 2001

6320 Canoga Avenue
Woodland Hills, California 91367
Telephone (818) 592-2438
Facsimile: (818) 592-2605
E-Mail: mmayer@homelender.com

Ms. Patricia C. Barbera
24 Caribe Isle
Novato, California 94949

Re: **Loan #1050821**

Dear Ms. Barbera:

Your letter of December 14, 2000 was received by WMC Mortgage Corp. on December 20, 2000. Your cancellation notice is invalid and of no legal effect. Under the Federal Truth-in-Lending Act, a borrower has a three day right to rescind a refinance loan, which period ended on June 16, 1997 for your loan. Please find enclosed a copy of the Notice of Right to Cancel provide to you on June 12, 1997. In addition, even if WMC had failed to properly follow the legal requirements of the Federal Truth-in-Lending Act with regard to disclosure to you of the loan terms, you would have had the right to cancel for a period of three years, or June 12, 2000.

Based upon the foregoing, WMC declines to cancel this loan.

Sincerely,

WMC MORTGAGE CORP.

A handwritten signature in black ink, appearing to read "Michael L. Mayer", with a long horizontal flourish extending to the right.

Michael L. Mayer
Senior Vice President
& General Counsel

VERIFICATION

I, PATRICIA C. BARBERA, declare:

I am the Plaintiff in the above-entitled action. I have read the foregoing COMPLAINT TO QUIET TITLE, FOR SPECIFIC PERFORMANCE AND FOR DECLARATORY RELIEF and know the contents thereof. The same is true of my own knowledge, except for those matters that are therein alleged on information and belief; and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 7, 2008 at Novato, California.

Patricia C. Barbera

PATRICIA C. BARBERA

EXHIBIT B

SUMMONS
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

WMC Mortgage Corporation, a California Corporation; See
ATTACHMENT I.

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):
PATRICIA C. BARBERA

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED

APR 11 2008

KIM TURNER, Court Executive Officer
MARIN COUNTY SUPERIOR COURT
By: C. Larson, Deputy

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es):

Marin County Superior Court
3501 Civic Center Drive, Room 113
P.O. Box 4988
San Rafael, CA 94913-4988

CASE NUMBER:
(Número del Caso):

CV081763

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Patricia C. Barbera, 24 Caribe Isle, Novato CA 94949

Tel: (415) 382-9617 Fax: (415) 382-0756

DATE:
(Fecha)

APR 11 2008

KIM TURNER, Court
(Secretario)

C. LARSON

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

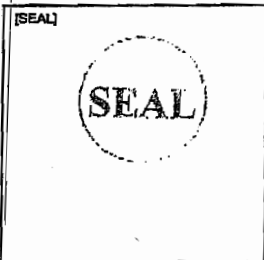
NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):

4. ☐ by personal delivery on (date):



SUM-200(A)

SHORT TITLE: BARBERA vs. WMC MORTGAGE CORPERATION	CASE NUMBER: A
---	--------------------------

INSTRUCTIONS FOR USE

- This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
- If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box. Use a separate page for each type of party.):

☐ Plaintiff ☒ Defendant ☐ Cross-Complainant ☐ Cross-Defendant

WMC Mortgage Corporation, a California Corporation; Aka WMC Direct, a California Business Entity, GE Consumer Finance, a Unit of General Electric Company; Select Portfolio Servicing, Inc; Aka Fairbanks Capital Corp., a Utah Corporation, Fairbanks Capital Holding Corp., a Delaware Corporation; and California Land Title Company of Marin, a California Business Entity. Does 1-100

Page ____ of ____

Page 1 of 1

PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. I am employed in the office of a member of the bar of this court at whose direction the service was made. My business address is REED SMITH LLP, 355 South Grand Avenue, Suite 2900, Los Angeles, CA 90071. On May 28, 2008, I served the following document(s) by the method indicated below:

DEFENDANT WMC MORTGAGE, LLC AND GE CONSUMER FINANCE, INC.'S NOTICE OF REMOVAL OF ACTION PURSUANT TO 28 U.S.C. §§ 1331 AND 1441

- ☐ by transmitting via facsimile on this date from fax number 213.457.8080 the document(s) listed above to the fax number(s) set forth below. The transmission was completed before 5:00 p.m. and was reported complete and without error. The transmission report, which is attached to this proof of service, was properly issued by the transmitting fax machine. Service by fax was made by agreement of the parties, confirmed in writing.
- ☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as set forth below. I am readily familiar with the firm's practice of collection and processing of correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in this Declaration.
- ☐ by placing the document(s) listed above in a sealed envelope(s) and by causing personal delivery of the envelope(s) to the person(s) at the address(es) set forth below. A signed proof of service by the process server or delivery service will be filed shortly.
- ☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ by placing the document(s) listed above in a sealed envelope(s) and consigning it to an express mail service for guaranteed delivery on the next business day following the date of consignment to the address(es) set forth below. A copy of the consignment slip is attached to this proof of service.

Patricia C. Barbera
24 Caribe Isle
Novato, CA 94949
Telephone: (415) 382-9617
Facsimile: (415) 382-0756
In Pro Per

I declare under penalty of perjury under the laws of the United States that the above is true and correct. Executed on May 28, 2008, at Los Angeles, California.


 Patty Keen

PROOF OF SERVICE

PJH 9

JS 44 - CAND (Rev. 11/04)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO.)

I. (a) PLAINTIFFS

PATRICIA C. BARBERA

E-filing

DEFENDANTS

WMC MORTGAGE CORPORATION, a California corporation; aka WMC Direct, a California Business Entity; GE Consumer Finance, a unit of General Electric Company; Select Portfolio Servicing Corp, a Utah Corporation, (See Attachment A)

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Marin
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Los Angeles
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Patricia C. Barbera, In Pro Per

ATTORNEYS (IF KNOWN)

Scott H. Jacobs (SBN 81980)
Christopher O. Rivas (SBN 238765)
REED SMITH LLP

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 Original Proceeding
☒ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury Med Malpractice <input type="checkbox"/> 365 Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DWC/DWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (US Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Corporation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Cable/Satellite TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Amer w/ disab - Empl <input type="checkbox"/> 446 Amer w/ disab - Other PRISONER PETITIONS <input type="checkbox"/> 510 Motion to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus: General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

VI. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Plaintiff's lawsuit arises from a loan she obtained from WMC Mortgage on June 11, 1997. Plaintiff alleges *inter alia* that WMC Mortgage violated the following federal statutes: (See Attachment B)

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION DEMAND \$ UNDER F.R.C.P. 23

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ YES ☐ NO

VIII. RELATED CASE(S) IF ANY

PLEASE REFER TO CIVIL L.R. 3-42 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE AN "X" IN ONE BOX ONLY)

☒ SAN FRANCISCO/OAKLAND ☐ SAN JOSE

DATE 5-28-08

SIGNATURE OF ATTORNEY OF RECORD

[Signature]

FILED

NDC-JS44

Attachment A to Civil Cover Sheet

Fairbanks Holding Corporation, a Delaware Corporation; and Land Title Company Of Marin, a California Business entity;

Does 1 thru 100, inclusive.

Attachment B to Civil Cover Sheet VI. Cause of Action

Real Estate Settlement Procedures Act, 12 U.S.C. § 2605, Truth in Lending Act, 15 U.S.C. § 1601 et seq., Home Ownership and Equity Protection Act, 15 U.S.C. § 1639, Fair Debt Collection Properties Act, 15 U.S.C. § 1692

PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. I am employed in the office of a member of the bar of this court at whose direction the service was made. My business address is REED SMITH LLP, 355 South Grand Avenue, Suite 2900, Los Angeles, CA 90071. On May 28, 2008, I served the following document(s) by the method indicated below:

CIVIL COVER SHEET

- ☐ by transmitting via facsimile on this date from fax number 213.457.8080 the document(s) listed above to the fax number(s) set forth below. The transmission was completed before 5:00 p.m. and was reported complete and without error. The transmission report, which is attached to this proof of service, was properly issued by the transmitting fax machine. Service by fax was made by agreement of the parties, confirmed in writing.
- ☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as set forth below. I am readily familiar with the firm's practice of collection and processing of correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in this Declaration.
- ☐ by placing the document(s) listed above in a sealed envelope(s) and by causing personal delivery of the envelope(s) to the person(s) at the address(es) set forth below. A signed proof of service by the process server or delivery service will be filed shortly.
- ☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ by placing the document(s) listed above in a sealed envelope(s) and consigning it to an express mail service for guaranteed delivery on the next business day following the date of consignment to the address(es) set forth below. A copy of the consignment slip is attached to this proof of service.

Patricia C. Barbera
24 Caribe Isle
Novato, CA 94949
Telephone: (415) 382-9617
Facsimile: (415) 382-0756
In Pro Per

I declare under penalty of perjury under the laws of the United States that the above is true and correct. Executed on May 28, 2008, at Los Angeles, California.


 Patty Keen

DOCSLA-15641809

Court Name: U.S. District Court, NDCA
Division: 3
Receipt Number: 34611019620
Cashier ID: bucklem
Transaction Date: 05/28/2008
Payer Name: san francisco legal support

CIVIL FILING FEE

For: wmc mortgage
Case/Party: D-CAN-3-08-CV-002677-001
Amount: \$350.00

CHECK

Check/Money Order Num: 37666
Amt Tendered: \$350.00

Total Due: \$350.00
Total Tendered: \$350.00
Change Amt: \$0.00

pjh

Checks and drafts are accepted
subject to collections and full
credit will only be given when the
check or draft has been accepted by
the financial institution on which
it was drawn.